

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6804 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KALYANMAYI ASHAPURI EDUCATION TRUST

Versus

STATE OF GUJARAT AND ORS.

Appearance:

MS MAMTA R VYAS for Petitioner
Mrs. Harsha Dewani, A.G.P. for respondents no.1 & 3
MR VIJAY H PATEL for Respondent No. 2

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 10/01/97

ORAL JUDGEMENT

Rule. Mrs. Harsha Dewani, learned A.G.P. waives service of notice of rule on behalf of respondents no.1 & 3. Mr. Vijay H.Patel, learned Counsel waives service of notice of rule on behalf of respondent no.2.

At the request of learned Advocates appearing for the parties, the petition is heard today.

By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ or order directing the respondents to decide application submitted by the petitioner-Trust immediately. The petitioner has also prayed to direct the respondents to grant permission to it to run Ramdev Uttar Buniyadi Ashram Shala forthwith, which is already closed.

Ramdev Uttar Buniyadi Ashram Shala was being run by Rang Avadhoot Seva Mandal, which is a Trust registered under the provisions of the Bombay Public Trust Act, 1950. The Trust stopped running the school and it was closed. Having regard to the interest of students, the petitioner made an application dated June 1, 1995 to respondent no. 2 to permit it to run the school. The said application is produced at Annexure-C collectively to the petition. The petitioner did not receive any reply and, therefore, made further representations dated August 2, 1995, September 27, 1995, March 8, 1996 and August 21, 1996. Those representations are produced by the petitioner on the record of the petition. The respondent no. 2 did not decide the application or representations made by the petitioner. Under the circumstances, the petitioner has filed the present petition and claimed reliefs to which reference is made earlier.

The petition was placed for admission hearing before Court on September 4, 1996 and after hearing the learned Counsel for the petitioner, notice was issued making it returnable on September 23, 1996. Though the respondents are duly served, no reply affidavit has been filed by any of the respondents controverting the statements made in the petition.

The fact that the petitioner has made an application dated June 1, 1995 to the respondent no. 2 seeking permission to start closed school, is not in dispute. It is not in dispute that the petitioner had made representations to respondent no. 2 to grant necessary permission to it to run the said school. However, neither the application nor the representations have been decided by respondent no. 2 yet. Having regard to the facts of the case, prayer to direct the respondents to grant permission to the petitioner-Trust to run closed school, cannot be granted at this stage, but interest of justice would be served if the respondent no. 2 is directed to decide the application dated June

1,1995 as well as representations dated August 21,1996 on merits and in accordance with law within stipulated time.

For the foregoing reasons, the petition partly succeeds. Respondent no.2 is hereby directed to decide the application dated June 1,1995 as well as representation dated August 21,1996 submitted by the petitioner on merits and in accordance with law within two months from the date of receipt of writ. Rule is made absolute accordingly, with no order as to costs.

Office is directed to send writ to respondent no.2 immediately. It would also be open to the petitioner to produce copy of this order before respondent no.2 for necessary compliance.